UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORPORATION, Plaintiff, v. WELLS FARGO & COMPANY, et al., Defendants.	Civil Action No. 2-06CV-72

THE BANK OF NEW YORK AND THE BANK OF NEW YORK COMPANY, INC.'S NOTICE OF ACCEPTANCE OF STIPULATION REQUIRED FOR STAY

The Court, having recently issued an order to stay litigation in three related cases, ordered (Docket No. 411) that this case be stayed as to U.S. Patent Nos. 5,910,988 and 6,032,137 (hereafter "Ballard Patents") in light of the *ex parte* reexamination initiated by First Data Corporation (hereafter "petitioner") of the Ballard Patents. As a required condition of the Court's stay, the Defendants The Bank Of New York and The Bank Of New York Company, Inc. (collectively "BNY") hereby notify the Court that they accept the following stipulation and the concomitant stay of all proceedings related to the Ballard Patents:

> As a condition of the stay, Defendant may not argue invalidity at trial based on one or more prior art printed publications that were submitted by the petitioner in the reexamination proceedings. However, Defendant will be permitted to rely for obviousness on the combination of a printed publication reference that was submitted by petitioner in the reexamination with prior art that was not so submitted.

Defendants further note that they will work with Plaintiff in this matter to keep the Court apprised of developments in the reexamination which may impact the ordered stay.

Dockets.Justia.com

Dated: January 19, 2007

Respectfully submitted,

/s/ Jennifer Parker Ainsworth
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who have consented to electronic service, Local Rule CV-5(a)(3)(A), on this the 19th day of January, 2007.

*/s/ Jennifer Parker Ainsworth*______
Jennifer Parker Ainsworth